

**RECEIVED  
CENTRAL FAX CENTER****JUN 13 2005****PATENT  
Expedited Procedure  
After Final Response  
Under 37 CFR 1.116****IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

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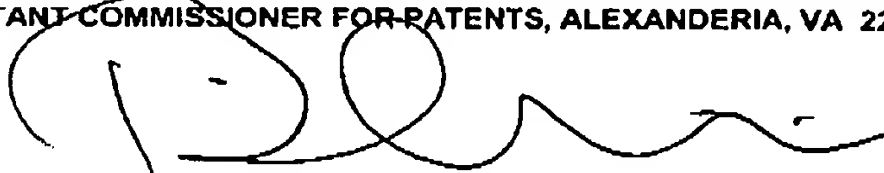
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Roland K. Bowler II

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Applicant:	KOTZIN	)	
		)	Examiner W. Daniel
Appl. No.	09/909,206	)	
		)	Art Unit 2686
Confirm. No.	9769	)	
		)	Atty. Docket No. CS10423
Filed:	20 July 2001	)	
Title:	"Methods for Mobile Communication Services Selection"		

**TRANSMITTAL FOR RESPONSE  
TO NON-COMPLIANT BRIEF  
UNDER 37 CFR 41.37(c)****RECEIVED  
OIPE/IAP****JUN 14 2005**

Assistant Commissioner for Patents

KOTZIN  
"Methods for Mobile Communication  
Services Selection"  
Atty. Docket No. CS10423

Appl. No. 09/909,206  
Confirm. No. 9769  
Examiner W. Daniel  
Art Unit 2686

Alexandria, VA 22313

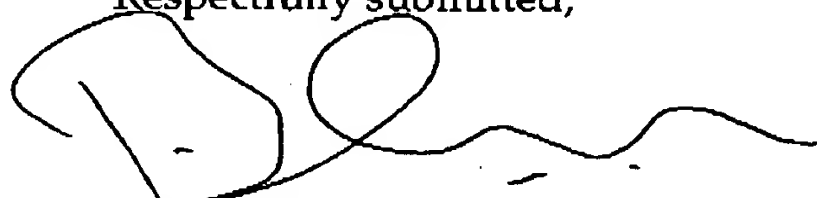
Sir:

The following is enclosed in response to the Notification of non-compliance Appeal Brief mailed of 3 June 2005:

☒ Revised Appeal Brief under 37 CFR 41.37(c) (21 pages);

☒ Fee Calculation Sheet (NO FEE DUE).

Respectfully submitted,



ROLAND K. BOWLER II 13 JUNE 2005

MOTOROLA, INC.  
INTELLECTUAL PROPERTY DEPT. (RKB)  
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<b>FEE TRANSMITTAL</b> Patent fees are subject to annual revision					<b>Complete if Known</b>																																																		
<div style="border: 1px solid black; padding: 5px;"><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">TOTAL AMOUNT OF PAYMENT (\$)<b>0.00</b></div>					Application Number	<b>09/909,206</b>																																																	
					Filing Date	<b>20 July 2001</b>																																																	
					First Named Inventor	<b>KOTZIN</b>																																																	
					Examiner Name	<b>W. Daniel</b>																																																	
					Group Art Unit	<b>2686</b>																																																	
					Attorney Docket No.	<b>CS10423</b>																																																	
<b>METHOD OF PAYMENT (check all that apply)</b>					<b>FEE CALCULATION (continued)</b>																																																		
<div style="border: 1px solid black; padding: 5px;"><div style="display: flex; justify-content: space-between;"><span>Check <input checked="" type="checkbox"/></span><span>Credit card <input type="checkbox"/></span><span>Money Order <input type="checkbox"/></span><span>Other <input type="checkbox"/></span><span>None <input type="checkbox"/></span></div><div style="margin-top: 10px;"><input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: <b>502117</b> Deposit Account Name: <b>MOTOROLA INC.</b></div><div style="margin-top: 10px;">The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.</div></div>					<b>4. ADDITIONAL FEES</b>																																																		
<b>FEE CALCULATION</b>					<b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>																																																		
					<table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th rowspan="2">Application Type</th><th colspan="2">FILING FEES</th><th colspan="2">SEARCH FEES</th><th colspan="2">EXAMINATION FEES</th><th rowspan="2">Fee Paid (\$)</th></tr><tr><th>Large Fee (\$)</th><th>Small Entity Fee (\$)</th><th>Large Fee (\$)</th><th>Small Entity Fee (\$)</th><th>Large Fee (\$)</th><th>Small Entity Fee (\$)</th></tr></thead><tbody><tr><td>Utility</td><td>300</td><td>150</td><td>500</td><td>250</td><td>200</td><td>100</td><td></td></tr><tr><td>Design</td><td>200</td><td>100</td><td>100</td><td>50</td><td>130</td><td>65</td><td></td></tr><tr><td>Plant</td><td>200</td><td>100</td><td>300</td><td>150</td><td>180</td><td>80</td><td></td></tr><tr><td>Reissue</td><td>300</td><td>150</td><td>500</td><td>250</td><td>600</td><td>300</td><td></td></tr><tr><td>Provisional</td><td>200</td><td>100</td><td>0</td><td>0</td><td>0</td><td>0</td><td></td></tr></tbody></table>		Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fee Paid (\$)	Large Fee (\$)	Small Entity Fee (\$)	Large Fee (\$)	Small Entity Fee (\$)	Large Fee (\$)	Small Entity Fee (\$)	Utility	300	150	500	250	200	100		Design	200	100	100	50	130	65		Plant	200	100	300	150	180	80		Reissue	300	150	500	250	600	300		Provisional	200	100
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Reissue	300	150	500	250	600	300																																																	
Provisional	200	100	0	0	0	0																																																	
<b>2. EXTRA CLAIM FEES</b> Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent Multiple Dependent Claims					<table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th>Large Fee (\$)</th><th>Small Entity Fee (\$)</th></tr></thead><tbody><tr><td>50</td><td>25</td></tr><tr><td>200</td><td>100</td></tr><tr><td>380</td><td>180</td></tr></tbody></table>		Large Fee (\$)	Small Entity Fee (\$)	50	25	200	100	380	180																																									
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<b>3. APPLICATION SIZE FEE</b> If the specification and drawings exceed 100 sheets of paper, the application size fee is \$250 (\$125 for small entity) For each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.103.					<table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th>Large Fee (\$)</th><th>Small Entity Fee (\$)</th></tr></thead><tbody><tr><td>50</td><td>25</td></tr><tr><td>200</td><td>100</td></tr><tr><td>380</td><td>180</td></tr></tbody></table>		Large Fee (\$)	Small Entity Fee (\$)	50	25	200	100	380	180																																									
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<b>5. OTHER FEE(S) (specify)</b> Non-English Specification, \$130 fee (no small entity discount)					<table border="1" style="width:100%; border-collapse: collapse;"><thead><tr><th>Large Fee (\$)</th><th>Small Entity Fee (\$)</th></tr></thead><tbody><tr><td>50</td><td>25</td></tr><tr><td>200</td><td>100</td></tr><tr><td>380</td><td>180</td></tr></tbody></table>		Large Fee (\$)	Small Entity Fee (\$)	50	25	200	100	380	180																																									
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<b>SUBMITTED BY</b> Name (Print/Type): <b>ROLAND K. BOWLER II</b> Signature:					<b>Registration No.</b> <b>33,477</b> <b>Telephone</b> <b>847-523-3978</b>																																																		
					<b>Date</b> <b>6-13-2005</b>																																																		

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CENTRAL FAX CENTER****JUN 13 2005****PATENT****IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

Applicant:	KOTZIN	)	
		)	Examiner W. Daniel
Appl. No.	09/909,206	)	
		)	Art Unit 2686
Confirm. No.	9769	)	
		)	Atty. Docket No. CS10423
Filed:	20 July 2001	)	
Title:	"Methods for Mobile Communication Services Selection"		

**REVISED APPEAL BRIEF**  
**UNDER 37 C.F.R. § 41.37(c)**

Assistant Commissioner for Patents  
Alexandria, VA 22313

Sir:

**Real Party In Interest**

The real party in interest is Motorola Inc., by virtue of an assignment duly executed by the named inventor(s) and recorded in the Patent Office on 19 July 2001.

**Related Appeals & Interferences**

There are no related appeals or interferences.

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### Status of Claims

The appealed claims are Claims 1-13 and 15-20. Claim 14 has been canceled. A copy of the claims is appended in Appendix A.

### Status of Amendments

An amendment under 37 CFR 1.116 was filed on 14 February 2005. An advisory action mailed on 10 March 2005 indicated that Applicant's after final amendment would not be entered, though the Examiner of record indicated later that a supplemental advisory action would be mailed confirming entry of the amendment.

### Summary of Claimed Subject Matter

In one claimed embodiment, a mobile wireless communication device, page 2, lines 23-27, dynamically selects communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device by establishing communication objectives at the device for corresponding communications to be executed by the device, page 3, lines 12-16 and page 3, line 25 - page 5, line 3. The device selects one of the services for each communication to be executed by the device based on the corresponding established communication objectives, page 3, lines 17-24, and utilizes the selected communication service at least for the communication whose communication objective formed the basis upon which the communication service was selected, page 8, lines 11-14.

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In some embodiments, communication services are generally assessed relative to the communication objective. Assessment may occur by comparing service information received from the corresponding service providers at the device, for example, by determining which service optimally satisfies the specified characteristics of the communication to be executed. Page 6, lines 4-13 and page 7, lines 9-12. In one embodiment, a service is selected having service characteristics that most closely correlate with the weighted characteristics of the communication to be execute, page 7, lines 20-26. In one claimed embodiment, service information received from the service providers is stored at the device and updated, page 6, lines 16-18. In one claimed embodiment, a communication service is selected having service characteristics that most closely correlate with the weighted characteristics of the communication to be executed, page 7, lines 1-26. The claimed invention is most readily implemented in software on the device, page 4, lines 3-14 and page 5, lines 14-21. These and other aspects of the claimed subject matter is discussed more fully in the instant specification on page 2, line 18 through page 15, line 13 and is illustrated in FIGS. 1-5.

### **Grounds of Rejection for Review on Appeal**

Claims 1-13 and 15-20 anticipated by U.S. Patent No. 6,516,192 (Spaur) under 35 USC 102(b).

### **Arguments**

#### **Summary of Examiner's Allegations**

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Claims 1-13 and 15-20 stand finally rejected under 35 USC 102(b) for anticipation by U.S. Patent No. 6,516,192 (Spaur). Final Office Action, 3 November 2004, para. 3.

### Discussion of Claim 1

Contrary to the Examiner's assertion, Spaur fails to disclose or suggest a

... method in a mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device, comprising:

establishing communication objectives at the device for corresponding communications to be executed by the device;

selecting one of the communication services for each communication to be executed by the device based on the corresponding established communication objectives;

utilizing the selected communication service at least for the communication whose communication objective formed the basis upon which the communication service was selected.

The communication system (10) of Spaur is not a "... mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device ...." The communication system (10) of Spaur is a network infrastructure entity that sends data to a remote station. The Examiner's references to various passages of Spaur do not support the rejection. At col. 5: 40 – col. 6: 19, Spaur discusses the architecture of the communication system (10). At col. 6: 52-67, Spaur

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discusses bi-direction communications between the system (10) and a remote station using a spread spectrum downlink and a cellular digital packet data (CDPD) uplink. At col. 13: 13 & 49-51, Spaur discusses the communication system (10) identifying the availability of channels based on the location of a mobile station. At col. 10: 41-61, Spaur discusses channel selection of the link selector (64) of the system (10). In Spaur, the communication system (10) selects the optimum network channel for a particular communication with a mobile device based on an analysis of application requirements or constraints that must be met by the network. Thus Spaur is about the network making decisions for the mobile device. Claim 1 is about the mobile device making decisions for the mobile device. Claim 1 is thus patentably distinguished over Spaur.

### Discussion of Claim 2

Regarding Claim 2, contrary to the Examiner's assertion, Spaur fails to disclose or suggest, in combination with Claim 1,

... assessing the plurality of communication services relative to the communication objective for each communication before selecting one of the communication services.

In Spaur, the communication system (10) selects the optimum network channel for a particular communication with a mobile device based on an analysis of application requirements or constraints that must be met by the network. Claim 2 is thus further patentably distinguished over Spaur.

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### Discussion of Claim 3

Regarding Claim 3, Spaur fails to disclose or suggest, in combination with Claim 1,

... assessing a plurality of communication services relative to the communication objective for each communication during a communication.

In Spaur, the communication system (10) selects the optimum network channel for a particular communication with a mobile device based on an analysis of application requirements or constraints that must be met by the network. Claim 3 is thus further patentably distinguished over Spaur.

### Discussion of Claim 4

Regarding Claim 4, Spaur fails to disclose or suggest, in combination with Claim 1,

... receiving service information from the plurality of service providers at the device, assessing the communication services by comparing the service information received from the corresponding service providers at the device.

Spaur does not receive service information from the provider at the wireless unit. In Spaur, the channel selection decision is made by the link selector (64) at the communication system (10) (network) based on the application requirements and information in the communication link database (54), which

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is also part of the communication system (10). Claim 4 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 5

Regarding Claim 5, Spaur fails to disclose or suggest, in combination with Claim 4,

... querying the plurality of service providers for service information before receiving the service information.

There is no disclosure in Spaur that the communication system (10) or the mobile unit queries service providers for service information. Claim 5 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 6

Regarding Claim 6, Spaur fails to disclose or suggest, in combination with Claim 4,

... storing service information received from the service providers at the device, updating service information at the device.

There is no disclosure in Spaur that the mobile unit stores and updates service information. Claim 6 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 7

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Regarding Claim 7, Spaur fails to disclose or suggest, in combination with Claim 1,

... establishing a communication objective by specifying whether a communication to be executed by the device is a data communication or a voice communication.

Spaur merely obtains application bandwidth, security, packet loss, and jitter requirements from the application requirements database (64). Spaur, nevertheless, performs the analysis at the communication system (network), not at the mobile wireless communications device. Claim 7 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 8

Regarding Claim 8, Spaur fails to disclose or suggest, in combination with Claim 1,

... establishing communication objectives by specifying at least one characteristic of a communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 8 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 9

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Regarding Claim 9, Spaur fails to disclose or suggest, in combination with Claim 8,

... assessing communication services by determining which communication service optimally satisfies the specified characteristics of the communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 9 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 10

Regarding Claim 10, Spaur fails to disclose or suggest, in combination with Claim 1,

... establishing communication objectives by weighting at least one characteristic for each communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 10 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 11

Regarding Claim 11, Spaur fails to disclose or suggest, in combination with Claim 10,

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... assessing the communication services by comparing the weighted characteristics of each communication to be executed to corresponding service characteristics of each of the communication services.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 11 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 12

Regarding Claim 12, Spaur fails to disclose or suggest, in combination with Claim 11,

... selecting a communication service having service characteristics that most closely correlate with the weighted characteristics of the communication to be executed.

Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 12 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 13

Regarding independent Claim 13, contrary to the Examiner's assertion, Spaur fails to disclose or suggest a

...method in a mobile wireless communication device for selecting communication services available to the mobile wireless communication device, comprising:

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establishing a communication objective at the device by identifying a characteristic of a communication to be executed by the device;

assessing a plurality of communication services based on communication service information received from a plurality of at least two communication service providers, by comparing the identified characteristic of the communication to be executed with a corresponding service characteristic of each of the plurality of communication services;

selecting a communication service from the plurality of communication services having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

Spaur does not assess service information at the mobile unit. In Spaur, channel information is obtained from a communication link database (54) in the communication system (10) (network), and a link selector (64) subsequently selects the channel. In Spaur, both the link database and link selector are part of the network, not the mobile unit. Spaur, col. 5, line 32 - col. 6, line 51. Claim 13 is thus patentably distinguished over Spaur.

#### Discussion of Claim 15

Regarding Claim 15, Spaur fails to disclose or suggest, in combination with Claim 13,

... selecting a communication service before executing the communication, and selecting a different communication service during the communication.

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Spaur performs the channel analysis and selection at the network, not at the mobile wireless communications device. Claim 15 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 16

Regarding Claim 16, Spaur fails to disclose or suggest, in combination with Claim 13,

... weighting the one or more identified characteristics of the communication to be executed,  
assessing the communication services by comparing the weighted characteristics of the communication to be executed to similarly weighted corresponding characteristics of each of the communication services.

Spaur performs any weighting at the network, not at the mobile unit. Claim 16 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 17

Regarding independent Claim 17, contrary to the Examiner's assertion, Spaur fails to disclose or suggest,

... mobile wireless communication device, comprising:  
means for identifying a characteristic of a communication to be executed by the device;  
means for assessing service information received from a communication service provider by comparing the identified characteristic of the communication to be executed with

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corresponding service characteristics of each of a plurality of communication services;

means for selecting a communication service from the communication service provider having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

Spaur does not assess service information at the mobile unit. Spaur obtains channel information from the communication link database (54), and selects the channel with a link selector (64). In Spaur, both the link database and link selector are part of the network, not the mobile unit. Spaur, col. 5, line 32 - col. 6, line 51. Claim 17 is thus patentably distinguished over Spaur.

#### Discussion of Claim 18

Regarding Claim 18, Spaur fails to disclose or suggest, in combination with Claim 17,

... means for receiving the service information from the communication service provider at the device.

Spaur does not receive service information at the mobile unit. In Spaur, channel selection occurs in the network. Claim 18 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 19

Regarding Claim 19, Spaur fails to disclose or suggest, in combination with Claim 17,

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... means for requesting service information from the communication service provider.

Spaur does not request service information from the mobile unit. Claim 19 is thus further patentably distinguished over Spaur.

#### Discussion of Claim 20

Regarding Claim 20, Spaur fails to disclose or suggest, in combination with Claim 17,

... means for weighting the identified characteristic of the communication to be executed,  
means for comparing the weighted characteristic of the communication to be executed to corresponding service characteristics of the service information.

Spaur does not perform any weighting at the mobile unit. Claim 20 is thus further patentably distinguished over Spaur.

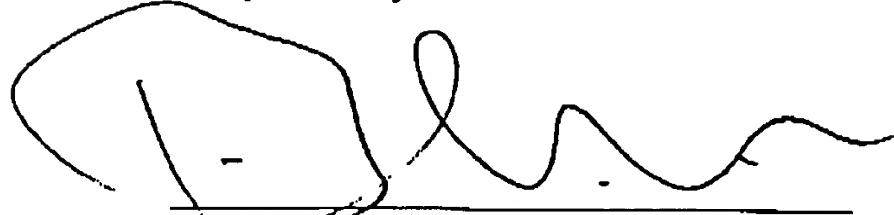
#### Prayer for Relief

Kindly reverse and vacate the rejections of claims, in view of the discussion above, with instructions for the Examiner to allow said Claims to issue in a United States Patent without further delay and provide other relief warranted.

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Respectfully submitted,



ROLAND K. BOWLER II 13 JUNE 2005  
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### Claims Appendix

1. (Previously Presented) A method in a mobile wireless communication device for dynamically selecting communication services from a plurality of service providers capable of providing communication services to the mobile wireless communication device, comprising:

establishing communication objectives at the device for corresponding communications to be executed by the device;

selecting one of the communication services for each communication to be executed by the device based on the corresponding established communication objectives;

utilizing the selected communication service at least for the communication whose communication objective formed the basis upon which the communication service was selected.

2. (Original) The method of Claim 1, assessing the plurality of communication services relative to the communication objective for each communication before selecting one of the communication services.

3. (Original) The method of Claim 1, assessing a plurality of communication services relative to the communication objective for each communication during a communication.

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4. (Original) The method of Claim 1, receiving service information from the plurality of service providers at the device, assessing the communication services by comparing the service information received from the corresponding service providers at the device.

5. (Previously Presented) The method of Claim 4, querying the plurality of service providers for service information before receiving the service information.

6. (Original) The method of Claim 4, storing service information received from the service providers at the device, updating service information at the device.

7. (Original) The method of Claim 1, establishing a communication objective by specifying whether a communication to be executed by the device is a data communication or a voice communication.

8. (Original) The method of Claim 1, establishing communication objectives by specifying at least one characteristic of a communication to be executed.

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9. (Original) The method of Claim 8, assessing communication services by determining which communication service optimally satisfies the specified characteristics of the communication to be executed.

10. (Original) The method of Claim 1, establishing communication objectives by weighting at least one characteristic for each communication to be executed.

11. (Original) The method of Claim 10, assessing the communication services by comparing the weighted characteristics of each communication to be executed to corresponding service characteristics of each of the communication services.

12. (Original) The method of Claim 11, selecting a communication service having service characteristics that most closely correlate with the weighted characteristics of the communication to be executed.

13. (Previously Presented) A method in a mobile wireless communication device for selecting communication services available to the mobile wireless communication device, comprising:

establishing a communication objective at the device by identifying a characteristic of a communication to be executed by the device;

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assessing a plurality of communication services based on communication service information, received from a plurality of at least two communication service providers, by comparing the identified characteristic of the communication to be executed with a corresponding service characteristic of each of the plurality of communication services;

selecting a communication service from the plurality of communication services having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

Claim 14 (Canceled).

15. (Previously Presented) The method of Claim 13, selecting a communication service before executing the communication, and selecting a different communication service during the communication.

16. (Original) The method of Claim 13,  
weighting the one or more identified characteristics of the communication to be executed,

assessing the communication services by comparing the weighted characteristics of the communication to be executed to similarly weighted corresponding characteristics of each of the communication services.

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17. (Previously Presented) A mobile wireless communication device, comprising:

means for identifying a characteristic of a communication to be executed by the device;

means for assessing service information received from a communication service provider by comparing the identified characteristic of the communication to be executed with corresponding service characteristics of each of a plurality of communication services;

means for selecting a communication service from the communication service provider having the service characteristic that correlates most closely with the identified characteristic of the communication to be executed by the device.

18. (Previously Presented) The device of Claim 17, means for receiving the service information from the communication service provider at the device.

19. (Previously Presented) The device of Claim 18, means for requesting service information from the communication service provider.

20. (Previously Presented) The device of Claim 17,  
means for weighting the identified characteristic of the communication to be executed,

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means for comparing the weighted characteristic of the communication to be executed to corresponding service characteristics of the service information.